

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE 6559
#16/dfm
1-20-04
Renewed
Pet.

Applicant: Bernd Schulze

Serial No: 09/507,453

Filing Date: February 22, 2000

Title: INTERNAL HIGH PRESSURE TRANSFORMING PROCESS FOR PRODUCTION
OF IN PARTICULAR BELLY SHAPED REAR CUT HOLLOW BODIES AND
ASSOCIATED DEVICE

Examiner: David B. JONES

Art Unit: 3725

November 11, 2003

Attorney's Docket No.: RUM213t7

TRANSMITTAL LETTER

BOX PETITIONS /NO FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
NOV 21 2003
TECHNOLOGY CENTER R3700

SIR:

Transmitted herewith for filing is:

<x> Renewed Petition under 37 CFR 1.181 dated November 11, 2003 (5 pages)

(X) The applicant hereby petitions the Commissioner of Patents and Trademarks to extend the time for response to any Office Action outstanding in the above captioned matter as necessary to avoid abandonment of the application. Please charge my deposit account No.11-0224 in the amount required to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to the above account.

(X) The Commissioner is hereby authorized to charge any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18 or any additional fees which may be required during the entire pendency of the application, or credit any overpayment, to Acct. No.11-0224. A duplicate copy of this sheet is enclosed. If and only if account funds should be insufficient, immediately contact our associate, Lisa Zumwalt, at (703)415-0579, who will pay immediately to avoid deprivation of rights.

() Please charge my Account No.11-0224 in the amount of \$_____. A duplicate copy of this sheet is enclosed.

A signature or signatures required for the above recited document(s) is (are) provided herebelow. Such signature(s) also provide(s) ratification for any required signature appearing to be defective in the above recited document(s).

Horst M. Kasper, 13 Forest Drive, Warren, N.J. 07059
Reg. No. 28,559 Tel.(908) 526-1717

CERTIFICATE OF MAILING:

I hereby certify that the correspondence attached hereto is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on

Signature: _____

Holoff

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Date: _____

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11/25



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RENEWED PETITION UNDER 37 CFR 1.181

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

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SIR:

TECHNOLOGY CENTER 1500

This is in response to Decision on Petition, dated October 20, 2003, stating time period of two (2) months from the mailing date of the Decision to file a renewed petition.

The Decision on Petition of October 20, 2003 states that it is the decision on the petition filed by facsimile transmission on September 6, 2003, requesting withdrawal of the holding that this application is abandoned for failure to timely file the issue fee. The Decision states that the petition is dismissed.

The Decision acknowledges receipt of a copy of the transmittal letter for a supplemental declaration, the authorization of payment of the issue fee, and a copy of post card receipt for the transmittal letter which shows that it was received in the Office

on April 30, 2003. Moreover, the Decision states that the fee authorization had affixed a 37 CFR 1.8(a) certificate of mailing dated April 30, 2003. However, the Decision states, petitioner's fee authorization was without effect since the fee authorization authorized the Office to charge Deposit Account No. 11-0224 "any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18, or any additional fees which may be required during the entire pendency of this application..." but there are no fees that are due under any of 35 U.S.C. § 1.6, 35 U.S.C. § 17 or 35 U.S.C. § 1.8.

The Decision continues that the issue fee is authorized by 35 U.S.C. § 151 and the amount of this fee is in fact set by 37 CFR 1.18.

Applicant respectfully requests reconsideration. The authorization to pay the issue fee in the transmittal letter for the supplemental declaration filed on April 30, 2003 which states "The Commissioner is hereby authorized to charge any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18 or any additional fees which may be required..." should, in fact, be read as "The Commissioner is hereby authorized to charge any fees under 37 C.F.R. 1.16, and 1.17, after a mailing of a Notice of Allowance under 37 C.F.R. 1.18 or any additional fees which may be required...." Applicant submits that it is well known that the fee are set in 37 C.F.R. and not in 35 U.S.C. and that it is clear that the applicant wanted to refer to the 37 C.F.R. The numbering of the Sections as 1.16, 1.17 and 1.18 clearly points to the numbering in 37 C.F.R.

Applicant believes that the typographical errors made by the applicant in the authorization to pay the issue fee, by incorrectly stating the U.S. Code instead of the federal regulation volume governing the payment of the issue fee, should not prejudice the applicant's clear authorization to charge any fees as required.

Moreover, despite improper citation of sections 1.16 and 1.17 under Title 35 of the United States Code, and not 37 C.F.R., the language of the authorization is clear enough to show that the applicant intended to pay the issue fee in the above-captioned patent application. The language of the authorization "...after a mailing of a Notice of Allowance" and "...or any additional fees which may be required during the entire pendency of this application" provides sufficient indication that the Commissioner is authorized to charge, among other fees required to be paid during pendency of a patent application, also the issue fee to the undersigned deposit account.

In addition, the undersigned has observed that it has never happened in the past, during the long practice of the undersigned before the U.S. Patent and Trademark Office, that the Office had any difficulties with interpreting the authorization clause given in the transmittal letters with the same

typographical error relating to the reference to 35 U.S.C. and not to 37 C.F.R. in connection with an issue fee.

In addition, the undersigned believes that during his long practice before the U.S. Patent and Trademark Office the Patent Office contacted the undersigned by phone in most cases were authorization to charge the deposit account of the undersigned attorney was found to be questionable.

The Decision further states that the fee authorization affixed to the transmittal letter does not specifically authorize the Office to charge the issue fee, but instead merely authorizes the Office to charge nonexistent fees in accordance with nonexistent Sections of Title 35 of the United States Code.

The undersigned respectfully disagree. The undersigned specifically authorized charging the issue fee "after a mailing of Notice of Allowance" to a deposit account at the U.S. Patent and Trademark Office. The general clause, including authorization to charge a group of fees, is commonly accepted and used by the attorneys practicing before the U.S. Patent and Trademark Office. Consequently, the authorization given by the undersigned in the transmittal letter filed on April 30, 2003 is believed to be sufficiently clear to express the intention of the applicant that the issue fee is to be charged to the deposit account of the undersigned attorney.

Finally, the Decision concludes that because there is no evidence that the issue fee was timely paid, and because the evidence submitted by petitioner does not show that

petitioner ever authorized the Office to charge the issue fee or to charge any fees under 37 CFR 1.18, there is no basis for withdrawing the holding of abandonment.

Applicant respectfully disagrees. Applicant filed a copy the transmittal letter dated April 30, 2003, and copy of the returned post card on September 6, 2003 in support of the undersigned contention that the Commissioner of Patents and Trademarks was authorized to charge the issue fee due in case of the present patent application to the undersigned deposit account no. 11-0224.

Acceptance of the renewed petition and withdrawal of abandonment of the present application is respectfully requested.

Respectfully submitted,

Bernd Schulze

By:

Horst M. Kasper

Horst Kasper, his attorney
13 Forest Drive, Warren, N.J. 07059
Tel.(908)757-2839; Reg. No. 28,559
Attorney's Docket No.: RUM213

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